

# **Streets Division Procurement Process**

**January 2020**

**City Internal Auditor's Office**

**City of College Station**

File#: 19.05

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# Streets Division Inquiry

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# Introduction

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The Office of the City Internal Auditor conducted this performance audit pursuant to Article II Section 30 of the College Station City Charter, which outlines the City Internal Auditor's primary duties.

A performance audit is an objective, systematic examination of evidence to assess independently the performance of an organization, program, activity, or function. The purpose of a performance audit is to provide information to improve public accountability and facilitate decision-making.

Performance audits encompass a wide variety of objectives, including those related to assessing program effectiveness and results; economy and efficiency; internal control; compliance with legal or other requirements; and objectives related to providing prospective analyses, guidance, or summary information.

## **Why this audit was conducted**

This audit was prompted when a Public Works employee brought forth to the Director and Assistant Director a potentially inappropriate relationship between a vendor and another employee. This allegation was immediately brought to the attention of key City officials, including the City Internal Auditor in order to inquire into the legitimacy of the perceived misconduct.

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## **Audit Objectives and Scope**

This audit addresses the competitive bidding, purchasing, and receiving processes for Streets Division awarded contracts during fiscal years 2015 through 2019 and answers the following questions:

- Did the City follow all relevant procurement laws, policies, and procedures?
- Is there evidence of inappropriate behavior between City employees and vendors?
- Is there any evidence of collusion, conflicts of interest, or was the bid structured to show favoritism to any one vendor?

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## **Audit Methodology**

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Audit fieldwork was conducted from October 2019 through December 2019. The scope of review varied depending on the analysis being performed. The methodology used to complete the audit objectives included:

1. Reviewing relevant procurement laws, policies, and procedures and comparing them to supporting bid documentation, contracts, invoices, and receiving documents.
2. Examining all Streets Division related competitive bidding documentation during fiscal years 2015 through 2019 to determine if there are (1) any relevant contracts where the lowest responsible bidder is not selected, (2) a variety of vendors participating in the bidding process, (3) any large fluctuations in unit pricing from one bid to another or amongst specific bidders, and (4) any indicators that one vendor is inappropriately winning a majority of bids.
3. Attaining legal opinions from the City's Legal Department to clarify contract stipulations.
4. Identifying any instances where secondary employment was not properly disclosed and approved by (1) reviewing the City's secondary employment policy, (2) interviewing relevant City staff, and (3) reviewing employees' in question personnel records.
5. Identifying personnel involved in all aspects of the procurement process to determine if adequate internal controls, including but not limited to segregation of duties, exist.
6. Identifying the vendor(s) and associated transactions of the highest risk of potential malfeasance by comparing the following activity of Street Division vendors during fiscal years 2015 through 2019: (1) the contract amount awarded compared to the amount spent, (2) the amount and frequency of change orders, (3) the total amount invoiced to the Streets Division by fiscal year, and (4) the amount invoiced by these vendors across other city departments compared to the amount invoiced within the Streets Division.
7. Verifying the amounts the vendor (identified in the methodological step above) charged the City in fiscal year 2019 were appropriate by reconciling (1) the invoiced unit prices to the unit prices specified in corresponding contracts, (2) the services and prices specified in contracts to those in corresponding bidding documents, and (3) the quantities received documented on receipts to the quantities stated on corresponding invoices.
8. Confirming that services and materials provided in fiscal year 2019 by the vendor (identified in step 6) were properly received by City personnel through examining receipt documentation for (1) proper approval, (2) completeness, (3) evidence of duplicate receipts, and (4) product quantity reasonableness and consistency.
9. Verifying the proper administration of dually awarded contracts by confirming the Streets Division is mostly requesting materials or services from the primary vendor (i.e. the lowest responsible bidder).
10. Identifying potential conflicts of interests between vendors and Streets Division employees through interviews with relevant City staff.

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## Findings and Recommendations

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This performance audit focused on reviewing the competitive bidding, purchasing, and receiving processes for the Streets Division. Significant analysis and research support each audit finding. Although this report does not provide these details, documentation supporting the audit findings may be provided to City officials upon request.

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### City Employees Should Adhere to City Policies

**Criteria:** Policies and procedures related to the procurement of goods or services detailed in the City's Purchasing Manual. Secondary employment stipulations and guidelines as outlined in section 4.11 of the Employee Handbook.

**Potential Risk:** Not adhering to these policies may result in misuse of public funds and risk a negative public perception of the City.

**Scope:** Secondary employment held by the Streets Division employee in question and contracts awarded to the vendor in question during fiscal years 2015 through 2019 on behalf of the Streets Division.

#### Observations:

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1. No exceptions to procurement policies or procedures were identified.
2. Contracts were appropriately approved and executed, and the stipulations detailed in contracts appear to be followed.
3. The employee in question was open with the Internal Audit Office about having secondary employment with the president of a company that has been put on the no-bid list due to the aforementioned president pleading guilty in 2009 to bribing a City of College Station official. The secondary employment in question appears to be a significant business arrangement.
4. There was not a secondary employment form submitted to the Public Works Director for approval of the employment discussed previously. In addition, the Director was not aware of this secondary employment.

#### Recommendation:

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The City should encourage the reporting of secondary employment by employees to supervisors. This procedure should focus on supervisors confirming that there is no conflict of interest or public perception risk as it pertains to an employee's secondary employment.

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## City Employees Should Maintain Appropriate Relationships with Vendors

**Criteria:** The guidelines for appropriate employee-vendor relationships are found in the Purchasing Manual (Chapter 3: Ethical Standards). Furthermore, the Ethical Standards state, “public employees should conduct themselves in such a manner that fosters public confidence in the integrity of the City of College Station procurement process.” According to the Ethical Standards, City employees should “avoid even the appearance of conflict between the public interest and self-interest.”

**Potential** Inappropriate employee-vendor relationships may result in awarding contracts

**Risks:** inappropriately and the appearance of, or actual, public corruption.

**Scope:** Transactions and further research regarding a potential inappropriate relationship between Streets employees and vendors.

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### Observations:

1. A relative of the employee in question engaged a company—whom is awarded the majority of Streets Division related contracts—for the paving of a personal 60ft driveway, 20ft sidewalk, trashcan pad, and a back porch addition. The work was performed at the employee’s mother’s single-family residential rental property where his child lived at the time the services were rendered. The employee was open and honest with the Internal Audit Office in all matters related to this event.
2. Although the Public Works Director and Assistant Director appeared to be aware of the aforementioned incident, both had different and inaccurate understandings of the facts.
3. Documentation proving the purchase of the driveway, porch, and sidewalk was requested from the employee on a Monday. Although the employee was informed he was not required to provide the documentation, he willingly provided the requested documentation to the Internal Audit Office on Friday of the same week.
4. Monetary compensation for the driveway, porch, trashcan pad, and sidewalk was not provided. Instead, an apparent swap of goods occurred. The value of the services rendered are estimated to be close to \$5,000.

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### Recommendation:

The City should establish policies and procedures for reporting and documenting potential conflicts of interest in fact and appearance between employees and vendors. These policies and procedures should prioritize transparency by requiring management to document instances where potential conflicts have been identified and what actions have been taken to mitigate any risks associated with those conflicts. Employees should be held accountable for not disclosing potential conflicts of interest and managers should be held accountable for known conflicts of interest that have resulted in any adverse outcomes to the City. Furthermore, if other City employees are aware of potential conflicts of interest between employees and vendors, they should be required to report them up the chain of command to the City Manager’s Office.

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## Material Indicators of Maleficence Were Not Identified

**Criteria:** Chapter 10 of the City's Purchasing Manual – Construction Services. State of Texas Procurement and Contract Management Guide.

**Potential** Not adhering to the policies outlined in the City's Purchasing Manual or the

**Risk:** guidelines detailed in the State's Procurement and Contract Guide increases the risk of fraud, waste, or abuse.

**Scope:** Contracts and the associated bidding documentation for all Streets Division competitively bid contracts between fiscal years 2015 through 2019. Fiscal year 2019 Streets Division related invoice and receiving documentation for the vendor awarded the majority of the Streets Division's contracts.

### Observations:

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1. Policies and procedures related to the competitive bidding process were followed, the lowest responsible bidder was selected, dually awarded contracts were executed appropriately, and no significant fluctuations in unit pricing from one bid to another or amongst specific bidders were found.
2. Change orders accounted for less than one percent of the total amount awarded. Also, the Streets Division is only spending just over half the amount awarded.
3. Invoice, contract, and bid tabulation unit pricing and specifications all reconciled.
4. Internal controls related to receiving goods and services and processing of invoices were generally effective and followed. There were only two instances in over 1,300 where proper segregations of duties were not present. The amount at risk represents 0.03 percent of the total value reviewed—which is not material.
5. Missing original receipt documentation accounted for roughly 2 percent of the total value of the amount reviewed. For the remaining 98 percent, adequate documentary evidence was found to demonstrate (1) proper review and approval, (2) quantities received consistently fell within reasonable ranges, and (3) no indicators of duplicate invoicing.
6. Adequate receipt documentation is not being provided by the vendor for some services and goods such as base failure repairs, emulsion materials, and milling and excavating asphalt streets. The total amount invoiced for these services represented 4.47 percent of the total value of the amount reviewed.

### Recommendation:

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The City should require adequate receiving documentation for all goods and services rendered—including, but not limited to: (1) vendor name, (2) received date, (3) detailed description of goods or services, (4) quantities received, and (5) signature of receipt from a City employee. Ideally, the employee taking receipt should be separate from the employee requisitioning the goods or services, reviewing and approving the invoices, and processing the transactions.

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## Management Responses

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**Recommendation:** The City should encourage reporting of secondary employment by employees to supervisors. This procedure should focus on supervisors confirming that there is no conflict of interest or public perception risk as it pertains to an employee's secondary employment.

**Management Response:** Management concurs. Management has been planning an update to the secondary employment process, and is working to implement this update in the near future.

**Recommendation:** The City should establish policies and procedures for reporting and documenting potential conflicts of interest in fact and appearance between employees and vendors. These policies and procedures should prioritize transparency by requiring management to document instances where potential conflicts have been identified and what actions have been taken to mitigate any risks associated with these conflicts. Employees should be held accountable for not disclosing potential conflicts of interest and managers should be held accountable if known conflicts of interest have resulted in any adverse outcomes to the City. Furthermore, if other City employees are aware of potential conflicts of interest between employees and vendors, they should be required to report them up the chain of command to the City Manager's Office.

**Management Response:** Management concurs. Management is reviewing policies and procedures related to potential conflicts of interest and will update them as appropriate and will then communicate those updates to all staff.

**Recommendation:** The City should require adequate receiving documentation for all goods and services rendered – including but not limited to (1) vendor name, (2) received date, (3) detailed description of goods or services, (4) quantities received, and (5) signature of receipt from a city employee. Ideally, the employee taking receipt should be separate from the employee requisitioning the goods or services, reviewing and approving the invoices, and processing the transactions.

**Management Response:** Management concurs and is reviewing current procedures to determine what updates may be needed, and will then communicate those updates to all staff.